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UNITED STATES DISTRICT COURT  
 NORTHERN DISTRICT OF CALIFORNIA  
 SAN FRANCISCO DIVISION

MAGDALY ORTIZ-MORALES, ) No. C 07-4759-WHA

Petitioner, )

v. )

MICHAEL CHERTOFF; ALBERTO R.  
 GONZALES; NANCY ALCANTAR;  
 LOU BLANAS, )

Respondents. )

**RESPONDENTS' STATUS REPORT**

The petitioner is a native and citizen of Honduras who was ordered deported by an Immigration Judge *in absentia* on November 1, 1989. Declaration of Yakov Grinberg ¶ 2. The petitioner did leave the country as directed and, accordingly, the United States Immigration and Customs Enforcement (ICE) arrested the petitioner on January 17, 2007. *Id.* at ¶ 3. The petitioner is currently being detained at ICE's behest at the Santa Clara Jail. *Id.* at ¶ 4.

While in detention, the petitioner filed a motion to reopen her deportation proceedings with the Immigration Judge, arguing that she did not receive notice of her deportation hearing. *Id.* at 5. The Immigration Judge denied the motion to reopen on April 9, 2007. *Id.* at 6. The Board of Immigration Appeals (BIA) affirmed the Immigration Judge's denial of the motion to reopen on June 21, 2007. *Id.* at 7. The United States Court of Appeals for the Fifth Circuit denied the

1 petitioner's motion for a stay of deportation on August 15, 2007. *Id.* at 8.

2 The petitioner then filed a motion to reconsider with the BIA, asking the BIA to reconsider its  
3 June 21, 2007 decision. *Id.* at 9. On September 7, 2007, the BIA denied the petitioner's motion to  
4 reconsider. *Id.* at 10.

5 The ICE was set to remove the petitioner to Honduras on July 13, 2007, but was prevented  
6 from doing so in light of the stay of deportation that was then in effect due to the petitioner's  
7 challenge to her *in absentia* deportation order. *Id.* at ¶ 11. There is no longer a stay of deportation  
8 in effect and the ICE intends to re-new the petitioner's travel document (which facilitates an  
9 alien's removal from the United States) and to remove the petitioner to Honduras imminently. *Id.*  
10 at ¶ 12. However, the ICE voluntarily agrees not to remove the petitioner at any time prior to  
11 October 19, 2007, in order to give the parties and this Court an opportunity to resolve the  
12 petitioner's habeas petition.

13 The parties are today filing a stipulation to a briefing schedule. As indicated above, the  
14 respondents voluntarily agree not to remove the petitioner at any time prior to October 19, 2007.

15  
16 Dated: September 21, 2007

Respectfully submitted,

17 SCOTT N. SCHOOLS  
18 United States Attorney

19 /s/  
20 EDWARD A. OLSEN  
21 Assistant United States Attorney  
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